

Grants Made Easy: The Administrative Requirements

A-110 and A-102
The Common Rule



WHAT!



- Recipients compliance with the administrative requirements of A-110, A-102 and the OMB Cost Principles continues to grow in importance in the assistance agreement arena.

How Are You Evaluated?



- Pre-Award and advanced monitoring activities that evaluate recipients policies and procedures for compliance with the applicable Federal regulations.

WHY?



- Increased over-site of the assistance arena by Congress, General Accounting Office and it's the right thing to do!

Which is worse?



- Non Compliance with the Circulars, No Policies!
- Great policies but the organization fails to follow them!

No Policies



- Organization non-compliant Federal funds at risk.



Great policies but the organization fails to follow them!

- Once again you are noncompliant!

Which is worse?



- Both are indicators that will cause the auditor to perform a more in-depth examination of your records.

What can a recipient do to survive.



- When preparing your policies be sure that you can abide by them (understand the basic Federal requirements).
- Ensure that they meet the minimum Federal requirements.
- Educate your staff on the policies.

What can a recipient do to survive.



- Remember, you will be measured against your policy if it is more stringent than the Federal requirement.

What can a recipient do to survive.



- Review your policies and procedures routinely to ensure that everyone is following them. (this is especially important in decentralized systems)

Common Problems Found



- Problems with Indirect Cost Rate
- Unallowable costs
- Lack of internal controls
- Lack of procurement procedures
- Lack of an accounting manual
- Insufficient property management standards

Common Problems Found



- Insufficient property standards
- Lack of procurement standards
- Indirect cost rate issues
- Inability to sufficiently determine allowable costs
- Lack of procedures for drawing and disbursing funds

Debarment and Suspension



- .13 Federal awarding agencies and recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension." This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.



- This means you and your sub grantees / contractors must check the excluded parties list
- <http://www.epls.gov/>

Certifications and Representations.



- .17 Unless prohibited by statute or codified regulation, each Federal awarding agency is authorized and encouraged to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS



- You must have complete financial records for each assistance agreement.
- Recipients financial management systems must provide accurate, current and complete disclosure of the financial results of each Federally sponsored project.
- Does your accounting and financial management system(s) follow Generally Accepted Accounting Principles? (OMB Circular A-122, Attachment A, A(2)(e))



- Is your financial management system(s) able to relate financial data to performance data and develop unit cost information? (.21(a))



- Can your financial management system(s) provide accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the requirements of .52? These are the Financial Status Report and Report of Federal Cash Transactions. .21(b)(1))



- Can your financial management system(s) provide records that adequately identify the source and application of funds for federally-sponsored activities? Information to be included is: authorizations, obligations, unliquidated obligations, assets, outlays, income and interest. (.21 (b)(2))



- Does your financial management system(s) provide for effective control over and accountability for all funds, property and other assets, including ensuring that all such assets are used solely for authorized purposes? (.21 (b)(3))



- Can your financial management system(s) provide for a comparison of outlays with budget amounts for each award, including, where appropriate, information related to performance and unit cost?
(.21(b)(4))



- Does your financial management system(s) provide written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for the purposes of the program?
(.21(b)(5))



- Does your financial management system(s) provide written procedures for determining the reasonableness, allocability and allowability of costs in accordance with OMB Circular A-122, “Cost Principles for Non-Profit Organizations”? (.21(b)(6))



- Does your financial management system(s) provide accounting records which include cost accounting records supported by source documentation? (.21(b)(7))



- If applicable, does your financial management system(s) provide procedures for conducting an audit in accordance with OMB Circular A-133? Currently, A-133 audits are required for recipients expending \$500,000 or more in federal funds during the fiscal year. (.26(a))



- Does your financial management system(s) provide or describe existing or planned indirect cost rates? (OMB Circular A-122 Attachment A, Sections C and D)

PROPERTY AND PROCUREMENT STANDARDS



- Does your property management system(s) provide for maintaining: (1) a description of the equipment; (2) an identification number; (3) source of the property, including the award number; (4) where title vests; (5) acquisition date; (6) federal share of property cost; (7) location and condition of the property; (8) acquisition cost; (9) ultimate disposition information? (.34(f)(1))

PROPERTY AND PROCUREMENT STANDARDS



- Does your property management system(s) provide for a physical inventory and reconciliation of property at least every two years? (.34(f)(3))

PROPERTY AND PROCUREMENT STANDARDS



- Does your property management system(s) provide controls to insure safeguards against loss, damage or theft of the property? (.34(f)(4))
- Does your property management system(s) provide for adequate maintenance of the property? (.34(f)(5))

PROPERTY AND PROCUREMENT STANDARDS



- Does your organization maintain written procurement procedures which (1) avoid unnecessary purchases; (2) provide an analysis of lease and purchase alternatives; and (3) provide a process for soliciting goods and services? (.44(a))
- Does your procurement system provide for the conduct and documentation of cost or price analysis for each procurement action? (.45)

PERSONNEL AND TRAVEL



- Does your organization maintain written standards of conduct governing the performance of your employees engaged in the award and administration of contract (i.e., conflict of interest) and does it provide for disciplinary actions? (.42)

PERSONNEL AND TRAVEL



- Does your organization maintain a personnel system(s) which provides monthly reports on the activities of each employee whose compensation is charged to the assistance agreement? (OMB Circular A-122, Attachment B, 8(m))
- Does your organization maintain a standard travel policy? (OMB Circular A-122, Attachment B, 51(b))

.23 Cost Share/Matching



- (a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.
 - (1) Are verifiable from the recipient's records.
 - (2) Are not included as contributions for any other federally-assisted project or program.
 - (3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.
 - (4) Are allowable under the applicable cost principles.
 - (5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

Cost Share/Matching



- (6) Are provided for in the approved budget when required by the Federal awarding agency.
- (7) Conform to other provisions of this Circular, as applicable.
 - (b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency.
 - (c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If a Federal awarding agency authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of (1) or (2).

Cost Share/Matching



- d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

Cost Share/Matching



- (e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.
- (f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

Program Income



- (1) Added to funds committed to the project by the Federal awarding agency and recipient and used to further eligible project or program objectives.
- (2) Used to finance the non-Federal share of the project or program.
- (3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

Revision of Budget and Program Plans



- (a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon Federal awarding agency requirements. It shall be related to performance for program evaluation purposes whenever appropriate.
- (b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.
- (c) For nonconstruction awards, recipients shall request prior approvals from Federal awarding agencies for one or more of the following program or budget related reasons.

Revision of Budget and Program Plans



- (1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
- (2) Change in a key person specified in the application or award document.
- (3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.
- (4) The need for additional Federal funding.
- (5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the Federal awarding agency.

Revision of Budget and Program Plans



- (6) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with OMB Circular A-21, "Cost Principles for Educational Institutions," OMB Circular A-122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

Revision of Budget and Program Plans



- (7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.
- (8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

Monitoring and Performance Reporting



- (a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in Section _____.26.

Monitoring and Performance Reporting



- (b) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph _____.51(f), performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Federal awarding agency may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

Monitoring and Performance Reporting



- (d) When required, performance reports shall generally contain, for each award, brief information on each of the following.
- (1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.
- (2) Reasons why established goals were not met, if appropriate.
- (3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Monitoring and Performance Reporting



- (f) Recipients shall immediately notify the Federal awarding agency of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
- (g) Federal awarding agencies may make site visits, as needed.

____.53 Retention and access requirements for records.



- (a) This section sets forth requirements for record retention and access to records for awards to recipients. Federal awarding agencies shall not impose any other record retention or access requirements upon recipients.
- (b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency.

____.53 Retention and access requirements for records.



- The only exceptions are the following.
- (1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
- (2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.
- (3) When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.
- (4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph _____.53(g).

____.53 Retention and access requirements for records.



- (e) The Federal awarding agency, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained



Contract Provisions

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:



- **1. Equal Employment Opportunity** - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."



- **2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)** - All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.



- **3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)** - When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.



- **4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) -**
Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.



- **5. Rights to Inventions Made Under a Contract or Agreement** - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.



- **6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended** - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).



- **7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.



- **8. Debarment and Suspension (E.O.s 12549 and 12689)**
 - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.



- And truly, remember, we are from the government and we are here to help you!